

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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**RONALD D LOZANO,**

Petitioner,

v.

**ORLANDO RODRIGUEZ,**

Respondent.

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Civ. No. 16-4724 (JMV)

**MEMORANDUM AND ORDER**

Petitioner, Ronald D. Lozano, is an immigration detainee currently detained at the Elizabeth Detention Center in Elizabeth, New Jersey. He is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 and has paid the \$5.00 filing fee. Petitioner names the warden of the Elizabeth Detention Center, Orlando Rodriguez<sup>1</sup>, as the respondent in this case. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004).

In his federal habeas petition, Petitioner challenges his current immigration detention, which he alleges has exceeded fifteen months. “Federal courts have habeas jurisdiction to examine the statutory and constitutional bases for an immigration detention unrelated to a final order of removal.” *Ufele v. Holder*, 473 F. App’x 144, 146 (3d Cir. 2012) (citing *Demore v. Kim*, 538 U.S. 510, 517-18 (2003)); *see also Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 226 (3d Cir. 2011). In accordance with Rule 4 of the Rules Governing Section 2254 Cases, applicable to

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<sup>1</sup> The Court notes that the caption of the Petition names Charles Green as Respondent. However, in the body of his Petition, Petitioner names Orlando Rodriguez, the warden of the Elizabeth Detention Center, as Respondent. (Pet. 6, ¶ 9, ECF No. 1). Because the proper respondent in a petition for writ of habeas corpus is the warden of the facility where a prisoner is being held, *see Rumsfeld*, 542 U.S. 426, the Court will update the docket to reflect that Orlando Rodriguez is Respondent in this matter.

§ 2241 cases through Rule 1(b) of the Rules Governing Section 2254 Cases, this Court has screened the habeas petition for dismissal and determined that dismissal without an answer and the record on this issue is not warranted. In addition to any arguments that Respondent may make in the answer, Respondent shall specifically address what impact, if any, *Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469 (3d Cir. 2015), has on the habeas petition.

Accordingly, **IT IS** this 18<sup>th</sup> day of August, 2016,

**ORDERED** that the Clerk shall update the Court's docket to reflect that Orlando Rodriguez is the proper respondent in this matter; and it is further

**ORDERED** that the Clerk shall serve a copy of the Petition (ECF No. 1) and this Order upon respondent Orlando Rodriguez by regular mail, with all costs of service advanced by the United States; and it is further

**ORDERED** that the Clerk shall forward a copy of the Petition (ECF No. 1) and this Order to the Chief, Civil Division, United States Attorney's Office, at the following email address: USANJ-HabeasCases@usdoj.gov; and it is further

**ORDERED** that within forty-five (45) days of the date of the entry of this Order, Respondent shall file and serve an answer which responds to the allegations and grounds in the Petition and which includes all affirmative defenses respondent seeks to invoke, in addition to any other arguments respondent may make, the answer shall specifically address what impact, if any, *Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469 (3d Cir. 2015) has on the Petition; and it is further

**ORDERED** that Respondent shall file and serve with the answer certified copies of all documents necessary to resolve Petitioner's claim(s) and affirmative defenses; and it is further

**ORDERED** that within thirty (30) days of receipt of the answer, Petitioner may file a reply to the answer; and it is further

**ORDERED** that within seven (7) days of Petitioner's release, by parole or otherwise, Respondent shall electronically file a written notice of the same with the Clerk; and it is further

**ORDERED** that the Clerk of the Court shall serve a copy of this Order upon Petitioner by regular U.S. mail.

s/ John Michael Vazquez  
JOHN MICHAEL VAZQUEZ  
United States District Judge